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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/622,291	08/09/2000	Bernard Agasse	11345.025001	9720

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EXAMINER

PWU, JEFFREY C

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/622,291

Applicant(s)

AGASSE ET AL.

Examiner

Jeffrey Pwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 29-48 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 29-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Xidos et al.* (US 5,851,149) in view of *Rosen* (US 6,336,095) and further in view of *Thorner et al.* (US 6,422,941).

Xidos discloses an interactive gaming and audiovisual transmission system substantially claimed including:

a central gaming computer means for processing gaming data (col.1, line 47-col.2, line 14);
and

a receiver/decoder for receiving broadcast audio visual data relating to a broadcast event, and for receiving from the central gaming computer means gaming data relating to the broadcast event (col.36, line 11-col.39, line 45); the receiver/decoder including:

a subscription card reading device for interacting with a user's subscription card for providing user access to a broadcast event (13, 16; also see applicant's specification at page 2, lines 25-30, inherently a smart card or credit can be used as a subscription card);

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a bank card reading device for interacting with a user's bank card to read data stored thereon (16); and

a modem device (36b) for communicating data read from the user's bank card to a communication server connected to a bank server holding the user's bank account for transferring in response to said data credit from the user's bank account to a gaming account at the central computer means in order to permit gaming in relation to the broadcast event.

However, *Xidos* fails to show an electronic certificate generated by a bank card in response to transaction data submitted by the receiver/decoder or an outcome of the broadcast event is not produced in response to a user.

Rosen is applied for showing that it is conventional, in interactive TV systems, to purchase and process a gaming data by using a trusted agent (e.g. electronic/digital certificates) to facilitate various transactional data. (col.6, line 61- col.9, line 67).

Thorner is applied for showing that it is well known in the art that the outcome of a broadcast event is not produced in response of a user by invoking a demonstration mode (col.11, line 55-col.13, line 43), therefore the event's outcome is not produced due to the user's response.

It would have been obvious at the time of the invention was made to a person having ordinary skill in the art in view of the teaching of *Rosen* and *Thorner* to use an electronic certificate to process the data transaction between a merchant and customer for the purpose of a valid and more secure transaction and select a demonstration mode so that the user has no substantial participation in effecting an outcome of a broadcast event.

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Response to Arguments

3. Applicant's arguments filed 9/8/2003 have been fully considered but they are not persuasive.

Applicant argues that the *Xidos et al.* reference does not teach “Live Action Broadcast Event”. However, *Xidos et al.* discloses a gaming system, In “Summary of The Invention”: “a plurality of local area networks (LAN's) for communication with a network operations server and a payment processing center through a wide area network (WAN), each LAN including: a plurality of set top boxes in remote locations, each set top box for communication with a back office server and respective televisions, remote control units, and payment swipe devices; wherein the back office server includes program means for enabling interactive video gaming between a user and the television using the remote control unit wherein credit for said interactive video gaming is activated through the payment swipe device and approved by the payment processing center through the WAN and where the network operations server is for communication with each LAN and for communication with the payment processing center. The invention also provides a gaming system enabling users to participate in gaming at a plurality of remote locations comprising: a central network control center (NCC) interconnected to a plurality of gaming locations through a wide area network (WAN), each gaming location including a back office server interconnected through a local area network (LAN) with a plurality of gaming equipment in remote gaming sites, the central network control center including means for playing a jackpot.”.

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Therefore, *Xidos*' real-time gaming system inherently is a live broadcast system being used to provide users a simultaneous remote location gaming.

Regarding to the argument that the reference does not teach "Subscription Card Reading Device" . However, *Xidos* discloses this limitation at col.3, lines 21-24 and col.4, line 44-col.5, line 50; "The payment device is preferably a credit card swipe device 16" and "The player is instructed to pass a credit card through the credit card swipe device 16" .

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

☞ Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey Pwu whose telephone number is (703) 308-7835.



1 December 2003

JEFFREY PWU
PRIMARY EXAMINER